

## **Remarks**

### **1. Summary of Office Action**

In the Office Action mailed September 27, 2007, the Examiner rejected claims 1-20 under 35 U.S.C. § 112 as being allegedly indefinite for failing to point out and distinctly claim the subject matter that Applicants regard as the invention. In addition, the Examiner rejected claims 1-8, 12-13, and 15-18 under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent Application Pub. No. 2002/0151302 (Schmidt) in view of the article, "IP Centrex Creates New Opportunities for Equipment Manufacturers" (Stamp). Further, the Examiner rejected claim 9 under 35 U.S.C. § 103(a) as being allegedly obvious over Schmidt and Stamp in view of U.S. Patent No. 5,873,040 (Dunn). Yet further, the Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being allegedly obvious over Schmidt and Stamp in view of U.S. Patent Application Pub. No. 2003/0181202 (Link).

### **2. Status of the Drawings**

Applicants have amended Figures 1-3 to include the legend "Prior Art" as requested by the Examiner.

### **3. Status of the Claims**

Applicants have amended claim 1 to include the subject matter of claim 10 (which depended from claim 1), and Applicants have cancelled claim 10. Further, Applicants have amended claim 12 to include the subject matter of claim 19 (which depended from claim 12), and Applicants have cancelled claim 19. Applicants have also made non-substantive changes to the form of claims 1 and 10, as will be discussed below. \_\_\_\_\_

Now pending are claims 1-9, 11-18, and 20, of which claims 1 and 12 are independent and the remainder are dependent.

#### 4. Response to Rejections

The Examiner has rejected the subject matter of amended independent claims 1 and 12 (formerly claims 10 and 19) only under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite, as the Examiner asserted that the claims improperly mixed statutory classes and thus allegedly rendered their dependent claims indefinite.

Applicants submit that claims 1-20 were in proper form as originally written, in that the claims did not impermissibly mix statutory classes. Independent claim 1 properly recited a method carried out in a system, and independent claim 12 properly recited an improvement to a system. The fact that these claims *mentioned* other statutory classes does not cause the claims to be an indefinite mixture of statutory classes. Indeed, Applicants submit that the claims were very clear as written.

In rejecting the claims under § 112, the Examiner erred in characterizing the claims as claiming multiple statutory classes. For instance, in rejecting claim 2, the Examiner noted that claim 2 depends from claim 1, and the Examiner asserted that claim 1 "claims both a system and the method of the system." This is erroneous, since claim 1 on its face claims a method, not a system. The fact that claim 1 provides context for the method by reciting *where* the method occurs does not render the claim indefinite. Such claim language is just as acceptable as language reciting what entity carries out a method step (e.g., "operating a computer to sort values") or what product results from a method step (e.g., "painting the box to produce a painted box").

It would be different (and problematic) if claim 1 had recited something to the effect of "A system comprising the step of . . ." or "A method comprising the system of . . .", both of which would be indefinite. As written in this case, however, claim 1 was clear and definite. Further, claim 1 and the other claims depending from claim 1 were clear as written as well, as method claims properly depending method claim 1.

Similarly, in rejecting claim 13, the Examiner noted that claim 13 depends from claim 12, and the Examiner asserted that claim 12 "claims both a system and the improvement of the system." This is erroneous, since claim 12 on its face claims an improvement, not a system. The fact that claim 12 provides context for the improvement by indicating *where* the improvement applies does not render the claim indefinite. The claim is still directed the improvement. Furthermore, there appears to be nothing inherently indefinite about an improvement itself being an improvement of a system.

Notwithstanding the fact that the Examiner erred in rejecting the claims under 35 U.S.C. § 112, Applicants have amended claims 1 and 12 to put the claims in a form that would be acceptable to the Examiner. In particular, Applicants have changed claim 1 to recite "a method operable in a system of the type . . ." rather than "[i]n a system of the type. . . , a method . . . ." Further, Applicants have changed claim 12 to recite "[a]n improvement to a system of the type . . ." rather than "[i]n a system of the type . . . , an improvement . . . ." Applicants submit that these changes do not change the clear and understood meanings of the claims, and Applicants do not intend the changes to be viewed as substantive in any way.

Because claims 1-9, 11-18, and 20 are all clear and definite, Applicants submit that the § 112 rejections should be withdrawn and that the claims should be allowed.

**5. Conclusion**

In view of the foregoing, Applicants respectfully request favorable reconsideration and allowance of the claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

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